IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3566 of 1991

For Approval and Signature:

HON'BLE MR. JUSTICE ANANT S DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

RAMSING GHAMARBHAI CHAUDHARI

Versus

DISTRICT DEVELOPMENT OFFICER (REVENUE)

Appearance:

1. Special Civil Application No. 3566 of 1991

MR BHARGAV N BHATT for Petitioner No. 1

NOTICE SERVED for Respondent No. 1

RULE SERVED BY DS for Respondent No. 2

Mrs. Manisha L. Shah AGP for Respondent No. 3

CORAM : HON'BLE MR. JUSTICE ANANT S DAVE

Date of decision: 02/11/2004

ORAL JUDGEMENT

1. The petitioner has challenged the order of suspension dated 30th May 1991 passed by the District Development Officer on various grounds. The contention of the petitioner is that the order of suspension is passed for extraneous consideration and even the Criminal Complaint under the Prohibition Act, which was filed a year before, i.e. on 10th May 1990, was made the sole basis for passing the order of suspension.

2. This Court issued Rule in the matter and granted ad-interim relief by order dated 14th June 1991, whereby, the respondents were restrained from interfering with discharge of duty by the petitioner as Talati-cum-Mantri of village Rampura.

3. The learned Assistant Government Pleader, Mrs. Shah, has drawn my attention to the affidavit-in-reply filed by the Deputy District Development Officer of Mehsana District Panchayat, wherein, it is contended that the order of suspension is passed in accordance with the Gujarat Panchayat Service [Discipline & Appeal] Rules, 1964, and, more particularly Rule 4-A, which empowers the Appointing Authority to place the petitioner under suspension. The learned Assistant Government Pleader has submitted that the disciplinary proceedings at the relevant point of time were contemplated against the petitioner.

4. I have heard the learned advocates for the parties. So far as the outcome of the pending criminal case for the offence punishable under the Prohibition Act before the Court of the Judicial Magistrate, First Class, Visnagar, is concerned, no information is produced on record. The proceedings for departmental enquiry, which were contemplated as stated in the affidavit-in-reply, have, so far, not been commenced, probably, because of the pendency of the criminal case. However, this Court had already stayed execution and implementation of the order of suspension dated 30th May 1991 and the petitioner was allowed to perform his duties. The said interim order is required to be continued till outcome of the criminal case for the offence punishable under the Prohibition Act pending before the Court of the Judicial Magistrate, First Class, Visnagar. It is made clear that, on completion of the criminal proceeding against the petitioner, it is open to the respondents to take appropriate action in accordance with law.

5. In the facts and circumstances of the case, no further order is required to be passed. Rule is made absolute in terms of the interim relief granted by this

Court by order dated 14th June 1991, with the liberty to the respondents to proceed further in accordance with law on completion of the criminal case for the offence punishable under the Prohibition Act pending before the Court of the Judicial Magistrate, First Class, Visnagar. There shall be no order as to costs.

(Anant S. Dave, J.)
(swamy)